

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

VICTOR WEMBANYAMA,

Plaintiff,

vs.

JAMES T. GLODICH.

Defendant.

Civil Action No. 1:24-cv-1234

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Victor Wembanyama by and through its attorneys, DLA Piper LLP (US), hereby files this Complaint against James T. Glodich alleging as follows:

THE PARTIES

1. Victor Wembanyama (“Wembanyama” or “Plaintiff”) is a citizen of France and resides in or around San Antonio, Texas.

2. Defendant James T. Glodich is an individual who, upon information and belief, is domiciled in the state of Texas with an address at 1500 East Riverside #805, Austin, Texas 78741.

JURISDICTION AND VENUE

3. Through this Complaint, Wembanyama asserts claims against Defendant that arise under the Lanham Act, as amended, 15 U.S.C. § 1051, *et seq.*

4. The Court has original subject matter jurisdiction over Wembanyama’s federal claim pursuant to 28 U.S.C. §§ 1331 and 1338(a), as well as 15 U.S.C. § 1121(a), because Wembanyama’s claim arises under the Lanham Act, 15 U.S.C. § 1051, *et seq.*

5. Jurisdiction over the state law claims are also appropriate under 28 U.S.C. § 1367(a) because that claim is substantially related to the federal Lanham Act claim.

6. The Court has personal jurisdiction over Defendant in that Defendant is domiciled in Texas, transacts business in Texas, and has substantial contacts with Texas.

7. Venue is proper in the United States District Court for Western District of Texas in the Austin Division pursuant to 28 U.S.C. §§ 1391(b) because Defendant resides in this judicial district, a substantial part of the events giving rise to the claims herein occurred in this judicial district, and Defendant is subject to the Court's personal jurisdiction for the claims alleged herein.

WEMBY AND HIS METORIC RISE

8. At seven foot five and only 20 years old, Victor Wembanyama, nicknamed "Wemby," is one of the most famous names in professional basketball.

9. Since at least as early as 2022, the sports industry and fans routinely referred to Wembanyama by his nickname, "Wemby."

10. Wembanyama began playing professional basketball in Europe in 2019 at the age of 15.

11. By 2022, professional scouts and media in the US took notice and regarded Wembanyama as a top prospect for the National Basketball Association ("NBA").

12. The nation's top sports publications routinely discussed Wembanyama as the next great prospect.

13. Even at the start of the 2022 NBA season, Wembanyama was regarded as the favorite to be drafted first overall in the 2023 NBA rookie draft.

14. For instance, in October 2022, the Ringer's Kevin O'Conner wrote of Wembanyama: "[H]e is the best prospect in the 2023 class, and the best prospect I have scouted in my 11 years covering the draft."

15. Sure enough, in June 2023, the San Antonio Spurs selected Wembanyama first overall in the 2023 NBA Draft.

16. Wearing number 1, Wembanyama played his first NBA game on October 25, 2023 – the most watched opening night NBA game in 11 years.

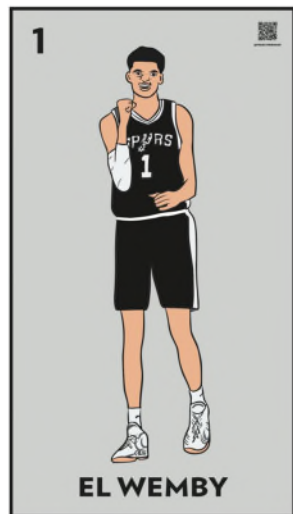
17. Wembanyama excelled in his first year, winning NBA Rookie of the Year honors unanimously.

18. In the 2024 Summer Olympics, Wembanyama led team France to a Silver Medal in basketball.

Defendant's Unlawful Activities.

19. On August 1, 2023, Glodich filed a federal trademark application for EL WEMBY for “[s]hirts for El Wemby; [h]ooded sweat shirts; [t]-shirts for El Wemby.”

20. The application, assigned Serial No. 98/110,816, included the following image as a specimen showing use of Glodich's trademark:



21. This is an image of Wembanyama in his number 1 San Antonio Spurs jersey.

22. On October 24, 2023 – the day before Wembanyama’s NBA debut – Glodich filed a federal trademark application for WEMBY’S WORLD for “retail good services.”

23. The application, assigned Serial No 98/238,542 included the following image as a purported specimen showing use of Glodich’s trademark:



24. On April 4, 2024, the United States Patent and Trademark Office (“USPTO”) issued an Office Action against Glodich’s application for EL WEMBY, refusing registration because Glodich’s mark “consist of or includes matter that may falsely suggest a connection with Victor Wembanyama, commonly referred to as ‘WEMBY.’”

25. On June 7, 2024, the USPTO issued an Office Action against Glodich’s application for WEMBY’S WORLD, again refusing registration because Glodich’s mark “consist of or includes matter that may falsely suggest a connection with Victor Wembanyama, commonly referred to as ‘WEMBY.’”

26. Upon information and belief, Glodich registered the domain name www.wembysworld.com (the “Domain Name”).

27. On the website at the Domain Name (the “Website”), Glodich advertises and sells shirts, candles, hooded sweatshirts, coffee mugs, mousepads, magnets, baby bibs, beer mugs, and wrapping paper.

28. All of the products advertised for sale on the Website depict the image of Wembanyama depicted in Paragraph 20.

29. The Website also depicts various photos of Wembanyama under the heading “Wemby in the Wild,” including the following:



30. On November 2, 2023, Wembanyama’s counsel sent a letter to Glodich demanding that he cease use of Wembanyama’s name, image, and likeness.

31. Glodich did not respond.

32. On November 21, 2023, Wembanyama's counsel sent a follow up message to Glodich requesting a response.

33. Again, Glodich did not respond.

34. On December 15, 2023, Wembanyama's counsel sent yet another letter to Glodich again reiterating the demands.

35. Still, Glodich did not respond.

36. Despite this, Glodich continues to advertise and sell products depicting Wembanyama's name, image, and likeness on the Website.

37. Glodich is advertising and selling and, upon information and belief, will continue to advertise and sell products that depict Wembanyama's name, image, and likeness, and Wembanyama's name, image, and likeness can be identified as appearing on said products.

38. Glodich is selling and, upon information and belief, will continue to sell products for commercial gain.

39. Glodich's unauthorized use of Wembanyama's name, image, and likeness has damaged and irreparably injured and, if permitted to continue, will further damage and irreparably injure Wembanyama and his reputation.

40. On information and belief, Glodich knows his use of Wembanyama's name, image, and likeness is neither permitted nor authorized by Wembanyama. As a result, Glodich has acted knowingly, willfully, in reckless disregard of Wembanyama's rights and in bad faith.

FIRST CLAIM FOR RELIEF

False Endorsement

15 U.S.C. 1125(a)

41. Wembanyama realleges the allegations contained in paragraphs 1 through 40, inclusive, of this Complaint as though fully set forth herein.

42. Glodich's actions described above and specifically, without limitation, his unauthorized use of Wembanyama's name, image, and likeness in commerce to advertise, promote, market, and sell Defendant's goods throughout the United States, including in Texas, constitute federal unfair competition, false designation of origin, and false endorsement in violation of 15 U.S.C. § 1125(a).

43. Glodich's unauthorized use in commerce of Wembanyama's name, image, and likeness constitutes a false designation of origin and a false endorsement that wrongfully and falsely designates the products offered by Glodich as originating from Plaintiff or approved or endorsed by Wembanyama.

44. On information and belief, Glodich's actions, if not enjoined, will continue. Wembanyama has suffered and continues to suffer damages in an amount to be proven at trial consisting of, among other things, diminution in the value of and goodwill associated with, and ability to control, Wembanyama's name, image, and likeness. Wembanyama is therefore entitled to injunctive relief pursuant to 15 U.S.C. § 1116.

45. Pursuant to 15 U.S.C. § 1117, Wembanyama is entitled to recover damages in an amount to be determined at trial, profits made by Defendant in connection with his unauthorized use of Defendant's Marks, and the costs associated with this action.

46. Upon information and belief, Glodich's actions are willful, and Glodich intentionally caused and continues to cause confusion, mistake, or deception, making this an exceptional case entitling Wembanyama to recover additional treble damages and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

SECOND CLAIM FOR RELIEF

**Right of Privacy
Texas Common Law**

47. Wembanyama realleges the allegations contained in paragraphs 1 through 46, inclusive, of this Complaint as though fully set forth herein.

48. Glodich has appropriated Wembanyama's name, image, and likeness for the value associated with such name, image, and likeness.

49. Wembanyama's name, image, and likeness are identifiable on Glodich's products sold on the Website.

50. On information and belief, Glodich has received some advantage and benefit from the unauthorized use of Wembanyama's name, image, and likeness, including, without limitation, proceeds from sales of products bearing Wembanyama's name, image, and likeness.

51. Glodich's activities complained of herein violate Wembanyama's right of privacy under the common law of the State of Texas.

52. Glodich's actions, if not enjoined, will continue.

53. Wembanyama has suffered and continues to suffer damages in an amount to be proven at trial consisting of, among other things, diminution in the value of and goodwill associated with Wembanyama's name, image, and likeness.

54. Glodich's violation of Wembanyama's right of privacy has caused and will continue to cause damage to Wembanyama, including irreparable harm for which there is no adequate remedy at law.

55. As a consequence of Glodich's activities, Wembanyama is entitled to damages and injunctive relief ordering Glodich to cease his violation of Wembanyama's right of privacy.

PRAYER FOR RELIEF

WHEREFORE, Victor Wembanyama demands judgment against James T. Glodich as follows:

1. Declaring that Glodich has:
 - a. Engaged and is engaging in acts that constitute a federal unfair competition, false designation of origin, and false endorsement in violation of 15 U.S.C. § 1125(a); and
 - b. committed and is committing acts which violate Wembanyama's right of privacy and right of publicity under the common law of the State of Texas;
2. Awarding injunctive relief restraining and enjoining Glodich and his agents, partners, servants, employees, heirs, officers, attorneys, managers, successors and assigns, and all persons acting in concert with or on behalf of Defendants, from:
 - a. using, imitating, copying, or making any other use of Wembanyama's name, image, or likeness;
 - b. manufacturing, assembling, producing, distributing, offering for distribution, circulating, selling, offering for sale, advertising, importing, promoting, or displaying any goods or services under any simulation, reproduction, counterfeit, copy, or colorable imitation of Wembanyama's name, image, or likeness, including, but not limited to, the products sold on Glodich's website which depict Wembanyama's name, image, or likeness;
 - c. engaging in any other activity which violates Wembanyama's right of publicity or right of privacy; and

d. assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (c) above;

3. Ordering Glodich to provide Wembanyama a full and complete accounting of all amounts due and owing to Wembanyama as a result of Glodich's illegal activities;

4. Ordering Glodich to hold in trust, as constructive trustees for the benefit of Wembanyama, his profits obtained from Glodich's provision of goods and services which depict Wembanyama's name, image, or likeness;

5. That this Court order Glodich to pay Wembanyama's damages and Glodich's profits pursuant to 15 U.S.C. § 1117(a) for Glodich's willful infringement;

6. That this Court order Glodich to pay trebled damages for the damages sustained by Wembanyama that are attributable to Glodich's willful and knowing acts of false endorsement pursuant to 15 U.S.C. § 1117;

7. Ordering Glodich to pay Wembanyama damages for Glodich's willful violation of Wembanyama's right of privacy and right of publicity;

8. Ordering Glodich to pay to Wembanyama both the costs of this action and the reasonable attorneys' fees incurred in prosecuting this action;

9. That this Court order Glodich to pay pre-judgment and post-judgment interest in the maximum amount allowed under the law; and

10. Granting Wembanyama such other and additional relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff Victor Wembanyama hereby demands a jury trial on all issues so triable of right.

Dated: October 15, 2024

/s/ John M. Guaragna

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